

STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
Land Division
Honolulu, Hawaii 96813

September 9, 2010

Board of Land and Natural Resources
State of Hawaii
Honolulu, Hawaii

PSF No.: 10HD-129

Hawaii

Issuance of Revocable Permit to Hawaii Explosives & Pyrotechnics, Inc., Mauna Kea Beach Hotel, Ouli, Waimea, South Kohala, Hawaii Tax Map Key: (3) 6-2-02: portion seaward of 04.

APPLICANT:

Hawaii Explosives & Pyrotechnics, Inc., a Hawaii corporation.

LEGAL REFERENCE:

Section 171-55, Hawaii Revised Statutes, as amended.

LOCATION:

Portion of Government lands of Ouli situated at Waimea, South Kohala, Hawaii, identified by Tax Map Key: (3) 6-2-02: portion seaward of 04, as shown on the attached map labeled Exhibit A.

AREA:

1,500 sq. ft., more or less.

ZONING:

State Land Use District:	Conservation
County of Hawaii CZO:	Unzoned beach adjacent to parcel with V-1.25 Resort Hotel zoning; also within Special Management Area

TRUST LAND STATUS:

Section 5(b) lands of the Hawaii Admission Act

DHHL 30% entitlement lands pursuant to the Hawaii State Constitution: NO

CURRENT USE STATUS:

Vacant and unencumbered.

CHARACTER OF USE:

Aerial fireworks display purposes.

TERM:

From 10:00 a.m. on Friday, December 31, 2010 to 3:00 a.m. on Saturday, January 1, 2011

RENTAL:

\$150.00 (10 cents per sq. ft. per day times 1,500 sq. ft.).

COLLATERAL SECURITY DEPOSIT:

None.

CHAPTER 343 - ENVIRONMENTAL ASSESSMENT:

See Exhibit B attached.

DCCA VERIFICATION:

Place of business registration confirmed:	YES <u>X</u>	NO <u> </u>
Registered business name confirmed:	YES <u>X</u>	NO <u> </u>
Applicant in good standing confirmed:	YES <u>X</u>	NO <u> </u>

REMARKS:

Hawaii Explosive & Pyrotechnics, Inc. (Applicant) has requested a right-of-entry onto the subject land for purposes of conducting its 2010 New Year's Eve aerial fireworks display at Kauna'oa Beach near the Mauna Kea Beach Hotel. The specific location of the fireworks display firing site is shown on Exhibit C attached.

Prior to 2009, staff issued rights-of-entry to Applicant pursuant to the authority delegated

by the Board of Land and Natural Resources at its meeting of September 28, 2001, Item D-4. Then in November 2008, Land Division instituted its permitting system for commercial activities on unencumbered State beaches. This system uses standard conditions that generally do not allow the placement of structures within the permit area. However, Applicant's fireworks displays require the use of firing racks and other equipment within the permit area. Accordingly, Applicant cannot secure the standard commercial beach permit for its fireworks displays. In such situations, Land Division is submitting the requested use of public lands to the Board for approval as a revocable permit. The Board has previously approved two revocable permits for aerial fireworks displays by this Applicant at the subject location (Board actions of December 11, 2009, Item D-8, and May 13, 2010, Item D-8).

Applicant has not had a lease, permit, easement or other disposition of State lands terminated within the last five years due to non-compliance with such terms and conditions. A revocable permit is more appropriate than a long-term disposition in light of the single date requested for the fireworks display.

No comments were solicited from other government or community agencies because there is no change to the use of the area from prior years.

There are no other pertinent issues or concerns. Staff has no objection to the request.

RECOMMENDATION: That the Board:

1. Declare that, after considering the potential effects of the proposed disposition as provided by Chapter 343, HRS, and Chapter 11-200, HAR, this project will probably have minimal or no significant effect on the environment and is therefore exempt from the preparation of an environmental assessment.
2. Authorize the issuance of a revocable permit to Hawaii Explosives & Pyrotechnics, Inc. covering the subject area for aerial fireworks display purposes under the terms and conditions cited above, which are by this reference incorporated herein and further subject to the following:
 - a. The standard terms and conditions of the most current revocable permit form, as may be amended from time to time;
 - b. Review and approval by the Department of the Attorney General; and

- c. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.

Respectfully Submitted,


Kevin E. Moore
District Land Agent

APPROVED FOR SUBMITTAL:



Laura H. Thielen, Chairperson

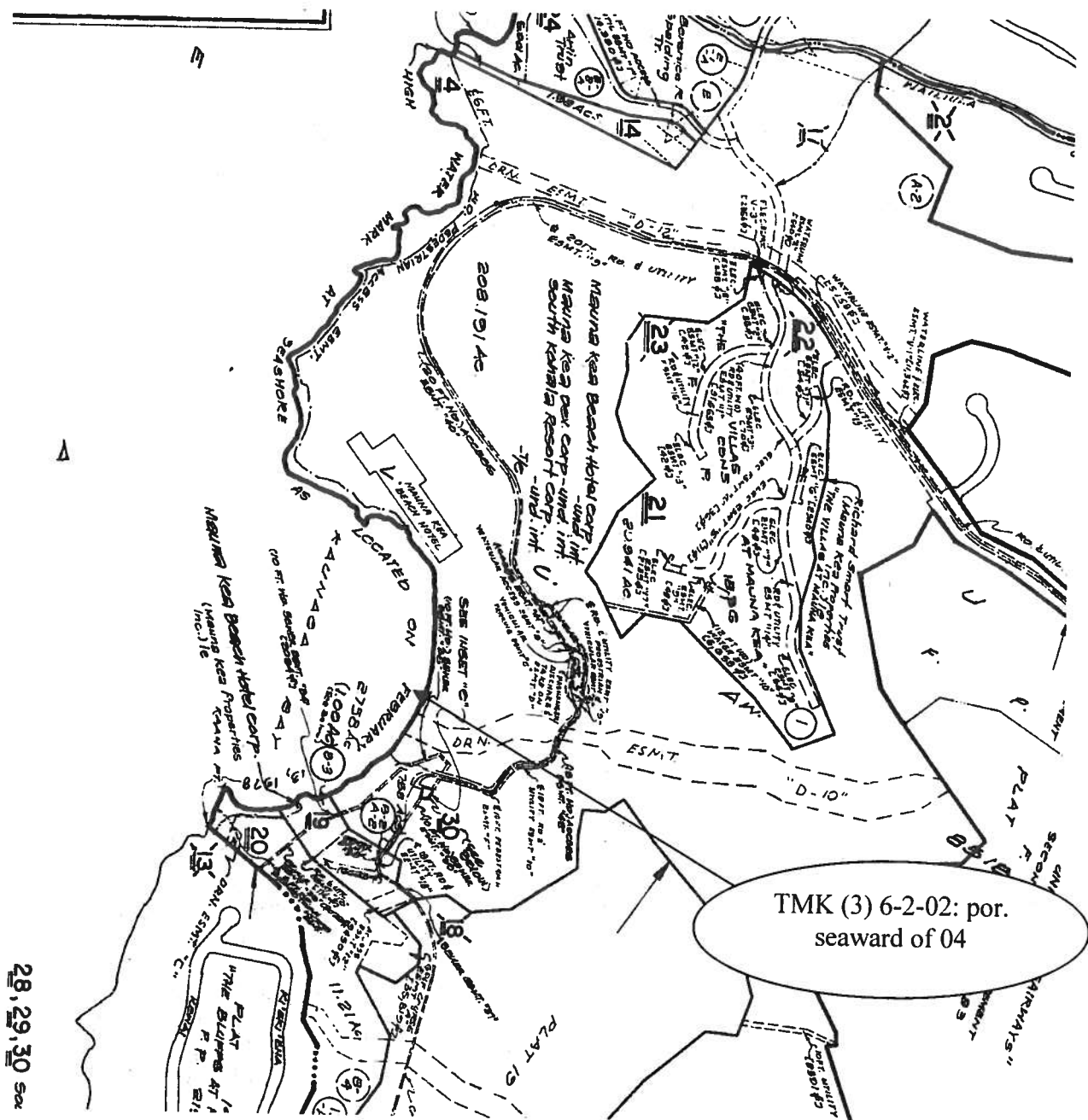


EXHIBIT A

LINDA LINGLE
GOVERNOR OF HAWAII



LAURA H. THELEN
CHAIRPERSON
BOARD OF LAND AND NATURAL RESOURCES
COMMISSION ON WATER RESOURCE MANAGEMENT

**STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES**

POST OFFICE BOX 621
HONOLULU, HAWAII 96809

EXEMPTION NOTIFICATION

From the preparation of an environmental assessment under the authority of Chapter 343, HRS and Chapter 11-200, HAR

Project Title: Issuance of Revocable Permit to Hawaii Explosives & Pyrotechnics, Inc.

Project Number: PSF No. 10HD-129

Project Location: Mauna Kea Beach Hotel, Ouli, Waimea, South Kohala, Hawaii
Tax Map Key: (3) 6-2-02: portion seaward of 04

Project Description: New Year's Eve 2010 aerial fireworks display

Consulted Parties: None

Exemption Class No.: In accordance with the "Exemption List for the State of Hawaii, Department of Land and Natural Resources, as Reviewed and Concurred Upon by the Environmental Council (Docket 91-EX-2, December 4, 1991), the subject request is exempt from the preparation of an environmental assessment pursuant to Exemption Class No.1, "Operations, repairs or maintenance of existing structures, facilities, equipment or topographical features, involving negligible or no expansion or change of use beyond that previously existing [HAR § 11-200-8(a)(1)]."

Exemption Item No. And Description: Class No.1, "Operations, repairs or maintenance of existing structures, facilities, equipment or topographical features, involving negligible or no expansion or change of use beyond that previously existing."

EXHIBIT B

This exemption is appropriate because the permittee, Hawaii Explosives & Pyrotechnics, Inc. (HEPI) has requested the use of a small area for a single aerial fireworks display. The location has been used periodically for such displays in recent years without significant impact on the environment.

The grant of a revocable permit for the limited purpose will result in no material change or significant cumulative impact. If further actions are taken that result in a material change, HEPI will be required to be in compliance with Chapter 343.

Recommendation:

It is recommended that the Board find that the issuance of a revocable permit to Hawaii Explosives & Pyrotechnics, Inc. will probably have minimal or no significant effect on the environment and is presumed to be exempt from the preparation of an environmental assessment.

Laura H. Thielen, Chairperson

Date



Display Firing Site Map
Mauna Kea Beach Hotel New Year's Eve Fireworks Display

Date: Friday, December 31, 2010
Firing Time: 12:00 midnight (approximately)
Firing Site: Kauna'oa Beach adjacent to Mauna Kea Beach Hotel
Alt. Firing Site: Mauna Kea Beach Hotel - South Point Lawn Lualu Grounds

EXHIBIT C